

Message Text

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ACTION ABF-01

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EOILQQYTWC NA

TAGS: ABUD, EAIR, TGEN, TPHY, OTRA, IN

SUBJ: EXCESS CURRENCY USAGE FOR INTERNATIONAL TRAVEL:

POLICY CLARIFICATION

REF: STATE 182204

1. WE APPRECIATE THE DETAILED HISTORICAL AND LEGAL WORK THAT WENT INTO THE PREPARATION OF REFTEL. WE HAD ALREADY TOLD GOI THAT IT IS LEGALLY IMPOSSIBLE FOR US TO ENTER INTO ANY SHARED USG FINANCED TRAVEL WITH AIR INDIA AND WE HAVE PROVIDED GOI WITH TEXT OF RELEVANT US LAW REGULATIONS.

2. PARTLY AS A RESULT OF EMBASSY "EDUCATIONAL EFFORTS" AS WELL AS CHANGE IN MOF PERSONNEL HANDLING FOREIGN EXCHANGE MATTERS MOF HAS CEASED TO TALK ABOUT SHARED TRAVEL. THIS DOES NOT, HOWEVER, END THE PROBLEM. ON THE CONTRARY, IN SOME WAYS IT MAKES IT WORSE.

3. WHILE WE CONCUR IN THE LEGAL SITUATION DESCRIBED IN REFTEL, THE HISTORICAL PICTURE OF USG ABILITY TO USE EXCESS RUPEES FOR INDIAN CITIZENS TRAVEL ON AMERICAN
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CARRIERS AS SET OUT IN REFTEL HAS LITTLE CONNECTION WITH

PAST OR PRESENT REALITY IN INDIA. FOR MANY YEARS, THE GOI HAS EXERCISED A "DOUBLE VETO" (VETO OVER PROJECT AS WELL AS INTERNATIONAL TRAVEL) ON PROJECTS FINANCED BY USG. AS A MATTER OF FACT, FOR QUITE A FEW YEARS VIRTUALLY NO INDIAN CITIZEN TRAVEL TOOK PLACE. THIS ISSUE DID ARISE DURING THE RUPEE NEGOTIATIONS AND AMBASSADOR MOYNIHAN AND OTHER USG NEGOTIATORS REPEATEDLY SOUGHT GOI ASSURANCES THAT THE "DOUBLE VETO" WOULD NOT BE UTILIZED TO BAR TRAVEL OF INDIAN ON USG PROGRAMS. THE GOI NEVER GAVE ANY SUCH ASSURANCES AND THE AGREEMENT MERELY PROVIDES FOR ESTABLISHED USAGE OF USG RUPEES. "OTHER USES" MAY BE PERMITTED AFTER CONSULTATIONS BETWEEN THE TWO GOVERNMENTS. WHATEVER THE THEOLOGICAL MERITS OF THE US CASE TO THE CONTRARY MIGHT BE, THE GOI WOULD BE CLEARLY CORRECT IN CLAIMING AMPLE PRECEDENT FOR ITS PRESENT RESTRICTIVE POLICY.

4. WE SEE LITTLE POINT IN CONTINUING USG-GOI LEGAL DIALOGUES ON A SUBJECT WHICH IS ESSENTIALLY SEEN BY THE INDIANS AS ONE OF POLICY, NOT LAW. AS NOTED ABOVE, BY FORTUITIOUS CHANGE A NEW SET OF CHARACTERS HAS TAKEN OVER THE MOF OFFICE DEALING WITH FOREIGN EXCHANGE MATTERS. THE OFFICIAL PRIMARILY CONCERNED HAS INFORMALLY TOLD THE ECONOMIC COUNSELOR THAT HE APPRECIATES THE US "FLY AMERICAN" POSITION. HOWEVER, HE IS NOT PREPARED TO LIFT THE DOUBLE VETO WITHOUT KNOWING HOW MUCH OF A FOREIGN EXCHANGE DRAIN WOULD RESULT. AS A FIRST STEP, HE ASKED WE PROVIDE HIM WITH THE NUMBER OF INDIAN TRAVELERS ON USG PROGRAMS OVER THE PAST TWO YEARS. (OUR REVIEW FOUND THIS TOTALED ONLY 39 PERSONS IN TWO YEARS). THIS OFFICIAL IS THINKING OF COMING UP WITH SOME SORT OF ANNUAL CEILING WITHIN WHICH THE TRAVEL PROGRAM COULD OPERATE, E.G., 40 ROUNDTrips BY INDIAN CITIZENS ON USG PROGRAMS. THIS TRAVEL WOULD BE PERMITTED ON US CARRIERS.

5. WHILE WE CERTAINLY DO NOT LIKE ANY QUOTA PROVISION, IN FACT WE HAVE LITTLE CHOICE BUT TO ACCEPT IT IF IT IS ESTABLISHED AND IT WOULD REPRESENT A CONSIDERABLE IMPROVEMENT FOR THE US AGENCIES CONCERNED (NOT TO SPEAK OF PAN AMERICAN). THE ISSUE OF USG LEGAL ACCEPTANCE OF THE QUOTA DOES NOT APPEAR TO ARISE.

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THERE WOULD BE NO GOI-USG AGREEMENT OF ANY SORT - RATHER A LIBERALIZATION OF EXISTING GOI GUIDELINES OF WHICH WE CAN MAKE USE.

6. UNTIL RECENTLY, THE ISSUES OF GOI RESTRAINTS ON TRAVEL OF USG EMPLOYEES COMING TO OR TRANSITTING INDIA HAS NOT FORMALLY ARISEN. IN A RECENT CASE, THE GOI ATTEMPTED TO BAR SUCH TRAVEL AND REQUIRE THAT IT BE MADE ON AIR INDIA.MHE EMBASSY

IMMEDIATELY PROTESTED STRONGLY POINTING OUT THAT THERE WAS
NO PRECEDENT
FOR THIS TYPE OF VETO AND THAT WE DID NOT REQUIRE
GOI APPROVAL FOR THE TRAVEL OF USG CITIZENS (OTHER THAN VISAS).
THE MOF RETREATED QUICKLY, WITHDREW ITS LETTER, AND WE DO NOT
BELIEVE THIS ISSUE WILL ARISE AGAIN. WE CONSIDER IT NOT IN
OUR INTEREST TO MENTION IT IN ANY WAY.

7. TO SUMMARIZE, WE FULLY COMPREHEND THE LEGAL BASIS WHICH
PREVENTS ANY KIND OF TRAVEL AGREEMENT WITH THE GOI AND
NONE IS PROPOSED. HISTORICALLY THE GOI HAS ALWAYS HAD A
DOUBLE VETO ON THE TRAVEL OF INDIAN CITIZENS AND THE RUPEE
AGREEMENT DID NOT CHANGE THIS. WE THINK THAT WE HAVE A
CHANCE TO SECURE GOI AGREEMENT OF INCREASED TRAVEL OF
INDIAN CITIZENS ON USG PROGRAMS, PARTICULARLY THOSE SPONSORED
BY THE JOINT COMMISSION AND ITS SUBCOMMISSIONS. WE WILL KEEP
THE DEPARTMENT INFORMED ON THIS SUBJECT. THIS WILL BENEFIT
THE INTERESTED USG AGENCIES AND US CARRIERS.
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